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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,824	06/01/2004	David Shiung	12008-US-PA	3823
31561	7590	06/22/2007	EXAMINER	
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE			MAI, TAN V	
7 FLOOR-1, NO. 100			ART UNIT	PAPER NUMBER
ROOSEVELT ROAD, SECTION 2			2193	
TAIPEI, 100				
TAIWAN				

  

NOTIFICATION DATE	DELIVERY MODE
06/22/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USA@JCIPGROUP.COM.TW

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/709,824	SHIUNG, DAVID	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tan V. Mai	2193	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 October 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-9 is/are allowed.  
 6) Claim(s) 10-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

1. Claims 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per independent claim 10, the terms: (1) "frequency synthesizing method" (line 3) should be -- frequency synthesizing step--; (2) "back-end processing method" (line 6) should be -- back-end processing step--; and (3) "a mixing method and a filtering method" (lines 6-7) should be -- a mixing sub-step and a filtering sub-step --.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims recite a method for performing a mathematical function.

"[t]o satisfy section 101 requirements, the claim must be for a practical application of the Sec. 101 judicial exception, which can be identified in various ways:

- . The claimed invention "transforms" an article or physical object to a different state or thing.
- . The claimed invention otherwise produces a useful, concrete and tangible result,....".

See "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" OG Date: 22 November 2005.

In order for claims to be statutory, claims must include a practical application with a concrete, useful, and tangible result. However, claims 10-16 merely disclose "method" [should be steps] of performing mathematical function without disclosing a practical application with a concrete, useful, and tangible result, as they are pre-emptive in any application. Therefore, claims 10-16 are directed to non-statutory subject matter.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hassun et al or Frank in view of applicant's Fig.1 (Prior Art).

As per independent claim 10, (1) Hassun et al disclose, e.g., see Fig. 4A, the invention substantially as claimed, including: a plurality of sine generators (20, 25, 30 and 35) and MUX (60) which are providing the claimed "frequency synthesizing method"; (2) Frank discloses, e.g., see Fig. 1, the invention substantially as claimed, including: a plurality of frequency generators (10, 20) and MUX (4) which are providing the claimed "frequency synthesizing method". ). It is noted that neither Hassun et al nor Frank specifically detail the claimed "back-end processing method"; however, the feature is old and well known in the art. For example, see applicant's Fig.1. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine applicant's "back-end processing method" in either Hassun et al or Frank, thereby making the claimed invention, because the proposed device is a frequency synthesizing method having selecting the desired frequency as claimed.

As per dependent claim 11, the claim adds "DAC" feature. Hassun et al and Frank show the feature.

As per dependent claim 12, the claim adds “numerical controlled oscillator” feature. Digital “back-end processing method” should use the claimed feature.

As per dependent claim 13, the claim adds “voltage controlled oscillator” feature. Hassun et al and Frank show the feature.

As per dependent claims 14-16, the claim adds “filter” features. applicant's Fig.1 shows the feature.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cited reference is art of interest.

6. The following is an examiner's statement of reasons for allowance: the recorded references do NOT teach or suggest the novel “frequency synthesizing and back-end processing circuit” having: (1) “first multiplexer” for selecting the desired reference frequency and (2) “second multiplexer” for selecting the desired “analog” or “digital” process features as recited in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan V. Mai whose telephone number is (571) 272-3726.

The examiner can normally be reached on Mon-Wed and Fri. from 9:30am to 2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An, can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is:

Official (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



Tan V. Mai  
Primary Examiner